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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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THE COMPANY FOR COOPERATIVE :
INSURANCE (TAWUNIYA); GULF UNION :
COOPERATIVE INSURANCE COMPANY : ECF CASE

Plaintiffs, : 09 Civ. 9090 (PGG)

- against - : **COMPLAINT**

M/V “PACIFIC CELEBES”, her engines; :
tackle, boilers, etc.; THE CHINA :
NAVIGATION CO. LTD.; SWIRE :
SHIPPING LTD.; SWIRE SHIPPING INC. ; :
SWIRE SHIPPING N.A.; :

Defendants. :
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Plaintiffs, through their undersigned attorney, allege as follows for their complaint
against defendants upon information and belief:

1. This action involves admiralty and maritime claims within the meaning of
Rule 9(h) with respect to the carriage of the subject cargo by sea and falls within the
Court’s federal question, pendent, ancillary, and supplemental jurisdiction as to the
remaining aspects of the claims. Plaintiffs seek recovery for cargo loss and damage
caused by defendants’ breaches of contract and torts.

2. Plaintiff The Company for Cooperative Insurance (TAWUNIYA) is a
corporation organized under the laws of a foreign sovereign and sues herein as the
subrogated insurer of the shipment described in the annexed Schedule A.

3. Plaintiff Gulf Union Cooperative Insurance Company is a corporation organized under the laws of a foreign sovereign and sues herein as the subrogated insurer of the shipments described in the annexed Schedule B.

4. This action is also brought by plaintiffs as subrogees of, and for and on behalf of, the consignees and owners of the cargo, and the holders of the subject bills of lading, as their interests may now or hereafter appear.

5. Defendants The China Navigation Co. Ltd., Swire Shipping Ltd., Swire Shipping Inc., and Swire Shipping N.A. are believed to be corporations organized under the laws of, and with their principal places of business in, certain of the fifty states or foreign sovereigns.

6. This Court has jurisdiction over the *in personam* defendants, who conduct business in the State of New York and the United States as a whole within the meaning of pursuant to Rule 4(k)(2) Federal Rules of Civil Procedure as common carrier of cargo for hire and the provision of services related thereto.

7. The bills of lading issued by or on behalf of defendants for the respective shipments include Southern District of New York forum selection clauses.

8. Upon information and belief the captioned vessel is now, or will be during the pendency of this action, within the admiralty and maritime jurisdiction of this Honorable Court or is otherwise subject to jurisdiction pursuant to Rule 4(k) (2) Federal Rules of Civil Procedure, and was at all material times owned, chartered, hired, managed or otherwise operated by the *in personam* defendants.

9. This action involves nondelivery, shortage, loss and damage to the subject shipments of bagged rice which were carried aboard the above-mentioned vessel and are

described more fully in the Swire Shipping Ltd. clean on board, negotiable order bills of lading listed in the annexed Schedules A and B, which are incorporated herein by reference.

10. Although the full and complete shipments were received by defendants in good order and condition at the ports of lading, at the place of delivery the cargoes were in damaged and depreciated condition and certain quantities of the bagged rice were not delivered by the defendants to the intended consignees.

11. The aforesaid nondelivery, shortage, loss, and damage was caused by (a) defendants' reckless and negligent failure to properly load, stow, carry, ventilate, protect, care for and deliver the subject cargo; (b) the unseaworthiness of the carrying vessels; (c) defendants' fundamental breaches of, and material deviations from, the governing carriage contracts; and (d) defendants' failure to take adequate and proper steps to mitigate the loss after the initial damage occurred.

12. As a result of the aforesaid, defendants are liable to plaintiffs as common carriers, bailees and/or warehousemen for hire for damages in the amount of \$529,563.66.

13. Plaintiffs sue herein on their own behalf and as agents and trustees for and on behalf of anyone else who may now have or hereafter acquire an interest in this action.

14. Plaintiffs and those on whose behalf they sue have performed all conditions precedent required of them under the premises.

WHEREFORE, plaintiffs demand judgment against the captioned defendants jointly and severally in the amount of \$529,563.66, in addition to interest at the rate of

9% per annum and the costs of this action and request that the Court issue its process against the aforesaid vessel in rem.

Dated: New York, New York
October 28, 2009

LAW OFFICES,
DAVID L. MAZAROLI

s/David L. Mazaroli

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SCHEDULE A

Subrogated Insurer:	The Company for Cooperative Insurance (TAWUNIYA)
Shipper:	Producers Rice Mill, Inc.
Consignee/Subrogor:	Al Namlah & Co. for Trading & Services, Ltd.
Carrying Vessel:	M/V "PACIFIC CELEBES"
Voyage:	028S
B/L No.:	USHOU0116422
Dated:	October 10, 2008
Port of Loading:	Houston, Texas
Port of Discharge:	Jeddah, Saudi Arabia
Commodity:	66,302 bags of rice
Claim Amount:	US\$487,401.00
Booking No.:	INDJ12120
Swire File:	3904 B
DLM File:	9K-1885-A

SCHEDULE B

Subrogated Insurer:	Gulf Union Cooperative Insurance Company
Shipper:	American Rice Inc.
Consignee/Subrogor	Omar Kassem Alesayi Marketing Co., Ltd.
Carrying Vessel:	M/V "PACIFIC CELEBES"
Voyage:	028S
B/L No.:	USFPO0117395
Dated:	October 12, 2008
Port of Loading:	Freeport, Texas
Port of Discharge:	Jeddah, Saudi Arabia
Commodity:	72,000 bags of rice
Claim Amount:	US\$42,162.66
Booking No.:	INDS12147-2
DLM File:	9K-1885-B